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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/737,038	12/14/2000	Richard Paul Messmer	85CF-00106	7863

7590 10/19/2004

John S. Beulick  
Armstrong Teasdale LLP  
Suite 2600  
One Metropolitan Sq.  
St. Louis, MO 63102

EXAMINER

POINVIL, FRANTZY

ART UNIT PAPER NUMBER

3628

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/737,038

Applicant(s)

MESSMER ET AL.

Examiner

Frantzy Poinvil

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 1, line 3, what is the function of the database?.

As per claim 3, it is unclear whether the "distribution of auction outcomes" is the same or different from that recited in claim 2.

As per claim 6, it is unclear whether the "distribution of auction outcomes" is the same or different from that recited in claim 5.

As per claim 11, what is the purpose of the "at least one client system"?

Claims not specifically addressed are rejected based on their dependencies.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCullan, Leslie "Cost forecasting - beyond the crystal ball", Transactions

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of AACE International PP:CS201-CS208 1996, CODEN: AACTAZ, ISSN: 1074-7397, JRNL Code AEE; Geissler, Christophe, "Recent trends in risk management", Corporate Finance, n126, PP: II-VI, May 1995, Dialog file 15, Accession No. 01068965; Duffield et al., "Inference and Optimal design for a welfare measure in dichotomous choice contingent valuation", Land Economics, v67, n2 pa225(15), May 1991, Dialog file 148, Accession No. 05172136; Carey, Mark, "Credit risk in private debt portfolios, Fifty-Eighth Annual Meeting, American Finance Association, Journal of Finance, v53, n4, p1363(25), August 1998, Dialog file 148, Accession No. 10407012.

As per claims 1-30, a Monte Carlo simulation is an iteration process that assumes the parameters subject to risk can be described by probability distributions. McCullan teaches that "Programs such as @Risk perform Monte Carlo simulation (or iteration) by which a randomly generated number select values for each budget item from its cumulative probability curve until the total cost curve is computed". See page 10, first paragraph. Similarly, Geissler discloses the principle of a Monte Carlo simulation "is to generate an important number (100 to 1,000 or more) of random joint scenarios on the n parameters  $P_1 \dots P_n$ , and to compute explicit probability distributions for the variables, the control which is critical for management - -essentially the cost of the debt or the margin between income for the assets and the cost of liabilities. By defining a multi-period time schedule (which may be based on the K next accounting

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periods), it is possible to establish confidence intervals for the possible values of these critical variables for each of the time buckets". See page 5 of Geissler.

Thus both McCullan and Geissler teach that randomly sampling a statistical distribution of possible outcomes to generate a possible scenario for a given kind of asset.

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of McCullan and Geissler since they are in the same field of endeavor relating to the practice of using a Monte Carlo simulation technique to generate possible outcomes for a given type of asset so as to better manage risks involved regarding the particular asset.

It is noted that bids and/or auctions involved assets in which buyers/sellers participate in the buying/selling the assets in order to maximize their profit. Duffield teaches a system and method using a Monte Carlo simulation process for arriving at an optimal bid in an auction system. Note pages 10-11 of Duffield. Duffield discloses determining a probability that a user selected bid value is greater than a randomly sampled competing bid values included in an auction scenario. Note page 11 of Duffield.

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Duffield into the combination of McCullan and Geissler in order to determine a probability that a user selected bid value would be successful.

The combination of McCullan, Geissler and Duffield does not explicitly teach the bid values of a user is for at least one tranche included within a

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portfolio of assets. Carey discloses sampling a tranche of a portfolio of assets using a Monte Carlo simulation technique to determine possible outcomes.

Applicant is directed to pages 2 and 5 of Carey.

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Carey into the combination of McCullan, Geissler and Duffield for diversification purposes so as to minimize risks involved in an auction system.

The combination of McCullan, Geissler, Duffield and Carey also includes the steps or means for codifying at least one of potential competition, market forces, forecasted budgets, priorities, risk and return tradeoffs into a preference matrix, and codifying market rules and contracts into computerized business rules suitable for a simulation. Applicant is referred to each of the above noted references.

It should be noted that the combination of McCullan, Geissler, Duffield and Carey uses a computer system having a server for performing the iteration process. Clients connected to the server can access results.

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory

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period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (703) 305-9779. The examiner can normally be reached on Monday-Thursday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FP  
October 16, 2004

  
**FRANTZY POINVIL**  
**PRIMARY EXAMINER**  
*AU 3628*